

(identified by the examiner as a fabric) is located in the interior of the floor structure not sandwiched there between as claimed by applicant.

As to 3. The examiner states that "a rigid longitudinal structural element 122 is located along the edges of the wall (floor)". This is not true. The elements 122 in Eaton are described as joists which support the finished floor structure. There are quite a few of the joists 122 along the floor structure and do not constitute rigid longitudinal structural elements along edges of the wall. Eaton does not show anything which could be interpreted as edges of the floor (not wall).

The examiner agrees that Eaton does not show any fabric located on both sides of the wall. At this point the examiner is challenged how the floor (not the wall) of Eaton is showing any corrugations. The examiner states that "Dumlao discloses a deck wall having a polymer cement core 67 and fabric material 35/40 located on both sides of the wall". The examiner again misinterprets the Dumlao reference by stating and naming it as a wall. The structure of Dumlao cannot be stood on edges to constitute a wall. It is not intended to be such a structure. The structure of Dumlao is a load bearing deck structure for use as a highway bridge. The applicant is unable to identify a polymer cement core 67 anywhere in his specification. The numeral "67" in Dumlao in column 14, lines 57 and 58 is identified as a shear lock 67 or other connecting means. Therefore, the applicant is at a loss how to answer the examiner's statement. It is assumed that the examiner is using the Dumlao reference as a teaching to create a sandwich construction in Eaton to include an additional fabric layer as shown by the secondary reference in order to provide a wall with strength and abrasion resistance. This conclusion is faulty because one having ordinary skill in the art would not know how to add an additional layer of a steel mesh 140 in the Eaton structure to obtain a sandwich construction as is claimed. Both Eaton and Dumlao are not constructing a wall but a load bearing deck which involves entire different construction parameters. Therefore, this rejection cannot be

maintained.

The examiner states that "Waterman discloses layers of fabric material 35/40 located on both sides of the wall. This reference is totally non-analogous art because it is a lithographic printer's blanket which cannot be used as a wall at all. The examiner states that "Waterman discloses layers of fabric, polyurethane and cement." However does not identify the various layers. The examiner further states that "Waterman also includes the tubing 31/27 in the corrugated material 32. The examiner is invited to again study the Waterman reference because 27 is identified as holes in a scalloping edge 26 whereby these holes are hooked over prongs of a printing press. 31 in Waterman is identified is inserts in the holes 27 as a reinforcement. (like a grommet). Therefore, there is no teaching of any tubing as stated by the examiner. Consequently, this reference must fail to teach anything of what applicant is claiming. The second paragraph on page 3 in the examiner's action is not understood and therefore, cannot be answered.

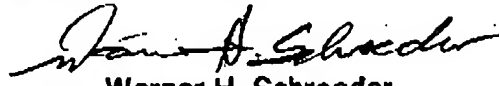
The examiner states that "applicant's arguments are moot given the new ground of rejection." The examiner is using the same references as were used in the first rejection of 04/15/2005. The inapplicability of both references to Eaton and Dumlao were discussed in detail in answering the above identified office action. The examiner could have extended a courtesy to applicant to at least answer applicants remarks and arguments with regard to these references when using them again. Applicant's arguments are not moot and are still applicable.

It is pointed out to the examiner that all three references Eaton, Dumlao and Waterman do not disclose a corrugated structure, leave alone a wall, but their final structure is not applicant's finished structure and that is a corrugated wall and that is what applicant is claiming. The exteriors of all three references are not corrugated at all but flat surfaces.

It is also pointed out to the examiner that the type of rejection made by the

examiner is frowned upon by the Board of Appeals, the former CCPA and the current CAFC. The examiner cannot use a second reference to modify a first reference and then use a third reference to modify the earlier modification.

The examiner is respectfully requested to call the undersigned if further art is uncovered or used or if further rejections are being made with the art of record in the case to advance the prosecution of this case.

  
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